

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Larry Schuett,

Petitioner-Appellant,

v.

Palo Alto County Board of Review,

Respondent-Appellee.

ORDER

**Docket No. 09-74-0217
Parcel No. 210506083371**

On June 29, 2010, the above-captioned appeal came on for hearing before the Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2) and Iowa Administrative Code rules 701-71.21(1) et al. The Appellant, Larry Schuett, was self-represented. The Palo Alto County Board of Review designated County Attorney Peter Hart as its legal representative. Both parties participated by phone and submitted new evidence in addition to the certified record. The Appeal Board having reviewed the entire record, heard the testimony and being fully advised, finds:

Findings of Fact

Schuett is the owner of a residentially classified, single-family residence located at 33569 350th Avenue Electric Park, Ruthven, Iowa. The property is a one-story residence built in 1997, and has 1080 square feet of total living area on a slab foundation. There is a 162 square-foot patio to the front. The site is 2000 square feet.

Schuett protested to the Palo Alto County Board of Review regarding the 2009 assessment. The January 1, 2009, total assessment of Schuett's property was \$83,910, allocated \$6960 in land value and \$76,950 in improvement value.

Schuett's claim was based on a single ground that there is an error in the assessment, under Iowa Code section 441.37(1)(c). Schuett's plain statement of the error asserted the "assessed value is way above the fair market price," essentially asserting a claim that the property is assessed for more than the value authorized by law under section 441.37(1)(b). Schuett did not indicate what he believed was the fair market value of the property. The Board of Review granted relief and reduced the total assessment to \$69,290, allocated \$6,960 in land value and \$62,330 in improvement value.

Schuett then appealed to this Board asserting the following grounds: 1) that the assessment is not equitable as compared with assessments of other like property in the county or city under section 441.37(1)(a); 2) that the property is assessed for more than the value authorized by law; and, 3) that there is an error in the assessment. The ground of inequity was not raised before the Board of Review therefore we will not consider this ground. We will only consider the ground of over-assessment.

Schuett provided an undated letter to the Board of Review, along with his petition. The letter offered three properties which Schuett believes are comparable. All are located on 350th Avenue.

The first property Schuett references is 33570 350th Avenue. He points out this property has a total assessment of \$21,750 compared to his total assessment of \$69,290. Schuett states in his letter this property has the "same approximate square footage" as his property. Schuett's property has 1080 square feet of living area. According to the property record card, the property located at 33570 350th Avenue has 576 square feet of living area with an additional 144 square feet of finished attic, for a total living area of 720 square feet. This property was also built in 1900 compared to Schuett's year built of 1997. This property is similar to Schuett's in that it lacks any basement area or garage. While Schuett argues this property has been "completely updated," the property record card reflects an assessment of a property in below normal condition and with 65% physical depreciation. There have been no recent transfers of this property to consider in a fair market value claim.

The second property Schuett offered in his original letter to the Board of Review is located at 33577 350th Avenue. This property was built in 1982 and is rated in normal condition on the property record card. Schuett asserts this property is similar in size, however the property record card indicates a total living area of 672 square feet compared to his 1080 square foot property. This property sold in July 2009 for \$40,000. However the Palo Alto County Assessor, indicated this was a family transfer.

The final property offered by Schuett in his original letter is located at 33565 350th Avenue. This property was built in 1988 and has 960 square feet. In our opinion it is the most similar to the subject improvement in terms of age, size and condition rating. Schuett indicates in his letter this property is valued at \$64,080. However, he is only reporting the improvement value. The property record card indicates a total value of \$71,040 which is higher than Schuett's total assessment of \$69,290.

To this Board, Schuett again offered the properties located at 33570 and 33565 370th Avenue, and also introduced a property located 33551 350th Avenue. The full property record card for this address was not supplied by either party, and requested by this Board. It was received by fax at the close of the hearing. This property is situated on a larger lot compared to the subject, and has 1920 square feet of total living area compared to the subject 1080 square foot living area. Additionally, this property was built in 1940 and features a two-car detached garage. 33551 350th Avenue has a total assessment of \$106,190 and sold in April 2009 for \$90,000. The unadjusted sale of this property, for a larger home, larger lot and superior amenities (garage), does not support a claim of over-assessment.

The Board of Review supplied an exhibit with fifteen properties all located on 350th Avenue, including three of the four properties referenced by Schuett. The spreadsheet provides the property address, total living area, assessed value, assessed value per square foot and year built. There were no sales presented. None of the information presented by the Board of Review addresses a market value claim and will not be considered.

While the Board of Review evidence did not address a market value claim, neither did Schuett provide sales or other evidence which would demonstrate the subject is over-assessed. We find insufficient evidence has been provided to demonstrate the subject is assessed for more than authorized by law.

Conclusions of Law

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2009). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

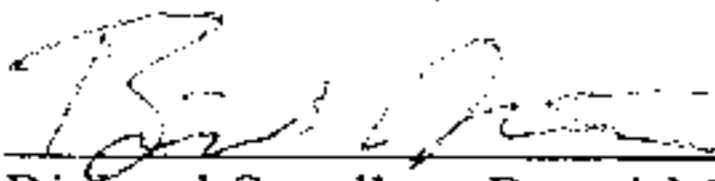
In an appeal that alleges the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), there must be evidence that the assessment is excessive and the correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). In *Riley v. Iowa City Bd. of Review*, 549 N.W. 2d 289, 290 (Iowa 1996), the Court determined that, “It is clear from the wording of Iowa Code section 441.21(1)(b) that the sales price of the subject property in a normal sales transaction, just as the sale price of comparable property, is to be considered in arriving at market value but does not conclusively establish that value.” Schuett failed to offer any recent sales of similar properties to demonstrate what he believes to be the correct value of

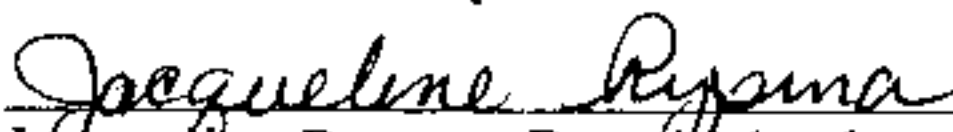
the property, or any other evidence which would indicate the subject is assessed for more than authorized by law.

THE APPEAL BOARD ORDERS that Larry Schuett's assessment of the property located at 33569 350th Avenue Electric Park, Ruthven, Iowa, as set by the Palo Alto County Board of Review is affirmed.

Dated this 16 day of August, 2010


Karen Oberman, Board Chair


Richard Stradley, Board Member


Jacqueline Rypma, Board Member

Cc:

Larry Schuett
Box 183
Minden, Iowa 51553
APPELLANT

Peter C. Hart
2105 Main Street
PO Box 74
Emmetsburg, Iowa 50536
ATTORNEY FOR APPELLEE

Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>8-16</u> , 2010	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX <input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier <input type="checkbox"/> Certified Mail <input type="checkbox"/> Other
Signature	